# Delhi HC raises the bar of burden of proof on the defendant to establish a credible challenge

Thought Leadership • September 22, 2016

*A decision of the Delhi High Court hints at presumption of validity of the patents, Archana Shanker discusses.* In 3m Innovative v. Venus Safety, the Division Bench of the Delhi High Court hinted at a presumption of validity of the patents holding that the grant of the patent by the IPO and the USPTO heightens the burden for establishing a credible challenge. Variously, the judges summarised the principles governing patentability of an invention and iterated:

- Merely because the prior art and the subject patent use the same term for a feature does not necessarily mean that the feature is the same.
- The entire specification and teaching of the prior art must be considered while determining patentability.
- With IPO and USPTO not finding the patent obvious, the burden is on the defendant to prove otherwise.

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